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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re

Case No. BK-N- 01-31627
(Chapter 11)

WASHINGTON GROUP
INTERNATIONAL, INC., et al.,

Debtors.

ORDER PURSUANT
TO 11 U.S.C. §§ 105(a)
AND 363(c) AUTHORIZING PAY-
MENT OF CERTAIN PREPETI-
TION SHIPPING CHARGES

Hearing Date: May 14, 2001
Hearing Time: 1:00 p.m.

Upon the motion, dated May 13, 2001 (the "Motion"),¹ of
the above-captioned debtors and debtors-in-possession (collec-
tively, the "Debtors"), for an order under 11 U.S.C. § 105(a)

¹ All capitalized terms not otherwise defined herein
shall have the meaning ascribed to them in the
Motion.

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3 authorizing the Debtors to pay certain prepetition Shipping
4 Charges; and upon the Affidavit of Stephen G. Hanks in Support of
5 Chapter 11 Petitions and First-Day Orders sworn to on May 13,
6 2001; and upon the record of the hearing on the Motion; and after
7 due deliberation thereon; and good and sufficient cause appearing
8 therefor, it is hereby

9 FOUND AND DETERMINED THAT:

10 A. The relief requested in the Motion is in the best
11 interests of the Debtors, their estates and creditors;

12 B. Authorizing the Debtors to pay the Shipping
13 Charges is necessary and essential to the Debtors' going concern
14 value and their successful reorganization; and

15 C. Failure to authorize the payment of the Shipping
16 Charges by the Debtors will result in a significant decrease in
17 the Debtors' going concern value and adversely impact the Debt-
18 ors' ability to successfully reorganize; and it is therefore

19 ORDERED, ADJUDGED AND DECREED THAT:

20 1. The Motion is GRANTED, *PROVIDED HOWEVER, that the*
funds paid under this Order shall not exceed \$100,000. (Circled)

21 2. The Debtors are authorized to make payments (the
22 "Payments") to third party shippers, haulers and commercial
23 common carriers ("Shippers") on account of prepetition Shipping
24 Charges on the following terms and conditions:

25 (a) The Debtors, in their sole discretion, shall determine
26 which Shippers, if any, are entitled to Payments under
this Order;

27 (b) If a Shipper accepts Payment under this Order, such
28 Shipper is deemed to have agreed to continue to provide
shipping or hauling or other transporting services to
the Debtors (the "Shipping Services"), on as good or

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3 better terms and conditions (including credit terms)
4 that existed ninety (90) days prior to the Petition
5 Date (the "Customary Terms"),² during the pendency of
6 these chapter 11 cases;

7 (c) If a Shipper accepts Payment under this Order and
8 thereafter does not continue to provide Shipping Ser-
9 vices on at least the Customary Terms during the pen-
10 dency of these chapter 11 cases, then (i) any Payment
11 on a prepetition claim received by such Shipper shall
12 be deemed to be an unauthorized voidable postpetition
13 transfer under Bankruptcy Code section 549 and, there-
14 fore, recoverable by the Debtors in cash upon written
15 request and (ii) upon recovery by the Debtors, any such
16 prepetition claim shall be reinstated as if the Payment
17 had not been made; and

18 (d) Prior to making a Payment to a Shipper under this
19 Order, the Debtors may, in their absolute discretion,
20 settle all or some of the prepetition claims of the
21 Shippers for less than their face amount without fur-
22 ther notice or hearing.

23 3. All applicable banks and other financial institu-
24 tions are hereby authorized and directed to receive, process,
25 honor and pay any and all checks evidencing amounts paid by the
26 Debtors pursuant to this Order, whether presented prior to or
27 after the Petition Date and are authorized and directed to rely
28 on the Debtors' representations as to which checks to honor.

4. Should the Debtors seek to recover Payments under
paragraph 2(c) of this Order, nothing in this Order shall pre-
clude a Shipper from contesting such treatment by making a
written request (the "Shipper Request") to the Debtors to sched-


² In the event the relationship between the Shipper
and the Debtors does not extend to 90 days before
the Petition Date, the Customary Terms shall mean
the terms that the Shipper generally extends to its
customers or such terms as are acceptable to the
Debtors in the reasonable exercise of their business
judgment.

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3 ule a hearing before this Court. If such a request is made, the
4 hearing on the request will be the next omnibus hearing date not
5 less than 20 days after the Debtors received the Shipper Request,
6 of which hearing the Debtors will provide notice to the Shipper
7 and other interested parties in accordance with the Bankruptcy
8 Code and the orders of this Court.

9 5. The provisions contained herein shall not be
10 construed to limit, or in any way affect, the Debtors' ability to
11 contest any claims asserted by Shippers on any ground that
12 applicable law permits.

13 6. Neither the provisions contained herein, nor any
14 payments made by the Debtors pursuant to this Order, shall be
15 deemed an assumption of an executory contract with a Shipper or
16 otherwise affect the Debtors' rights under 11 U.S.C. § 365 to
17 assume or reject any executory contract with the Shippers.

18 Dated: Reno, Nevada
19 May 17, 2001

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22 Hon. Gregg W. Zive
23 UNITED STATES BANKRUPTCY JUDGE
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